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10/661,926	09/11/2003	Mazen Chmaytelli	990545	8382

  

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QUALCOMM INCORPORATED		
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EXAMINER	
HALIYUR, VENKATESH N	

  

ART UNIT	PAPER NUMBER
2619	

  

NOTIFICATION DATE	DELIVERY MODE
11/02/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com  
kscanla@qualcomm.com  
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## Office Action Summary

Application No.

10/661,926

Applicant(s)

CHMAYTELLI ET AL.

Examiner

Venkatesh Haliyur

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15/07/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 7/15/2007 has been considered and is sufficient to overcome Jiang et al reference. However, amendments to the claims necessitated new search to be performed and hence new ground(s) of rejection has been made in view of a newly found reference. Rejection follows.
2. Claims 1-29 are pending in the application.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 11-20 are rejected under 35 U.S.C. 101 because the claims are directed to non-statutory subject matter.

Regarding claims 11-20, Claim 11 is directed to "A computer-implemented method for responding to incoming communication connection attempts at a wireless device, the method comprising: ..." which fails to meet 101 interim guidelines set forth therein. Claims 11-20 are claiming software in the form of a

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computer-implemented method. In order for a computer-implemented method or a computer program or software instructions to be statutory it must be embodied in a computer readable medium and hence fails to meet the interim guidelines set forth therein. It is well established that a computer-implemented method or a software application or a computer program, per se is not a physical "thing". The computer program does not define any structural and functional interrelationship between the computer program and the rest of the computer, which permits the computer program's functionality to be realized. Hence claimed application in claims 11-20 is nothing but a software application.

Regarding claims 11-20, these claims are written in the form of "method". However as evidenced above, claims 11-20 are claiming software in the form of method and in light of the specification it is nothing more than the computer program or instructions of the application and therefore claims 11-20 are non-statutory.

Thus, claims 11-20 are non-statutory since the patent protection sought by the claimed invention is for the computer program in the abstract.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. [US Pub: 2003/0112952].

Regarding claim 1, Brown et al in the invention of "Automatically Establishing a Telephone Connection Between a Subscriber and a Party Meeting One or More Criteria" disclosed a wireless device (**Figs 5/6, para 0152-0153, 0168-169**) comprising: having a processor (**item 530 of Fig 5**); a wireless communication interface (**item 528 of Fig 5**), coupled to said processor, wherein the wireless communication interface selectively receives (**filter or screen calls, para 0094**) an attempted incoming communication connection across a wireless network, and a memory, coupled to said processor (**para 0045-0047**), wherein the processor is operable to (**para 0033-0037, Fig 1**): classify (**item 524 of Fig 5**) the attempted incoming communication connection using identifying information of the attempted incoming (**caller identification**) communication connection (**para 0090-0092**); and perform a predetermined response to the attempted incoming communication connection based upon a classification of the attempted incoming communication connection (**para 0093-0098**).

Regarding claims 2-3,12-13,22-23, Brown et al disclosed that the predetermined response is to block (**filter or screen calls**) the attempted incoming communication connection attempt and the predetermined response

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includes an audio response (**voice message/mail**) to the attempted incoming communication connection (**para 0094**).

Regarding claim 4,14,24, Brown et al disclosed that the predetermined response is to request user input as to whether to accept the attempted incoming communication connection (**para 0032-0033, 0039-0042**).

Regarding claim 5,15,25, Brown et al disclosed that the predetermined response is to return a data response to the attempted incoming communication connection (**para 0124**).

Regarding claim 6,16,26, Brown et al disclosed that the classification of the attempted incoming communication connection occurs from identifying the telephone number of a calling telephone making the attempted incoming communication connection to the device (**para 0037**).

Regarding claims 7-8,17-18,27-28, Brown et al disclosed that the classification occurs through the receipt of Caller ID for the attempted incoming communication connection and the classification occurs through the receipt of identity data within the attempted incoming communication connection (**para 0091-0093**).

Regarding claim 9,19,29, Brown et al disclosed that the predetermined response is to send a short messaging service (**SMS**) message to the device making the attempted incoming communication connection (**para 0124**).

Regarding claims 10, Brown et al disclosed a computer wireless device (**system 500, Fig 5**), comprising: means for selectively receiving (**filter or**

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**screen calls)** an attempted incoming communication connection across a wireless network (**Fig 1**); means for classifying (**item 524 of Fig 5**) the attempted incoming communication connection using identifying information of the attempted incoming communication connection (**para 0090-0092, 0168**); and means for performing a predetermined response to the attempted incoming communication connection based upon a classification of the attempted incoming communication connection (**para 0093-0098, 0170**).

Regarding claims 11,20 Brown et al disclosed a computer-implemented method for responding to incoming communication connection attempts at a wireless device (**system 500, Fig 5**) the method comprising (**para 0017-0018, 00152**): receiving an attempted incoming communication connection across a wireless network, classifying the attempted incoming communication connection using identifying information (**caller identification**) of the attempted incoming communication connection (**par 0090-0092, 0153**); and performing a predetermined response to the attempted incoming communication connection based upon a classification of the attempted incoming communication connection (**para 0093-0098, 0154, Fig 1**).

Regarding claim 21, Brown et al disclosed a computer-readable medium comprising instructions, which when executed by a computer causes the computer to perform operations, the instructions comprising (**para 0017-0018**): at least one instruction for receiving an attempted incoming communication connection from another device across a wireless network (**Fig 1**); at least one

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instruction for classifying the attempted incoming communication connection using identifying information (**caller identification**) of the attempted incoming communication connection (**para 0090-0092**); and at least one instruction for performing a predetermined response to the attempted incoming communication connection based upon a classification of the attempted incoming communication connection (**para 0093-0098**).

### ***Response to Arguments***

7. Applicant's arguments see Remarks, filed on 07/15/2007, with respect to rejection of claims 1-29 under 35 U.S.C 102(b) have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not



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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications should be directed to the attention to Venkatesh Haliyur whose phone number is 571-272-8616.

The examiner can normally be reached on Monday-Friday from 9:00AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached @ (571)-272-7884. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2600 or fax to 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

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Venkatesh Haliyur

Patent Examiner

*ph* 10/16/07

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